

Application No. 10/725,215

### REMARKS

Reexamination and reconsideration of this application is respectfully requested in light of the foregoing amendments to the claims and the following remarks.

Claims 1, 2, 4, 6-10 and 30-32 are pending in this application. Claims 3, 5 and 11 were previously canceled. Claims 12-29 had been withdrawn from consideration due to a restriction requirement. These claims have been canceled subject to Applicant's right to file a divisional patent application thereon. New claims 31 and 32 have been added. No new matter has been added to the application by the amendments or the added new claims. Support for the amendments can be found in original claim 3; Figs. 1A, 2A, 9, 10A and 10B; and at page 11, lines 7-19, page 12, lines 14-22, and page 29, lines 2-26 of the specification.

Applicant notes the Examiner's consideration of the information cited in the Information Disclosure Statement filed November 22, 2006 as acknowledged in the Office Action Summary. Applicant further notes the Examiner's approval of the drawings received on October 30, 2006.

### Rejection Under 35 U.S.C. § 112

Claims 3, 4 and 9-11 stand rejected under 35 U.S.C. § 112, second paragraph, for various reasons. The rejection of claims 3 and 11 is in error since both claims were canceled prior to the final rejection. Therefore, the rejection is only applicable to claims 4, 9 and 10.

Claim 4 was rejected because the Examiner did not find the last three lines of the claim to be clear. The lines have been deleted thereby rendering the rejection moot.

Claim 9 was rejected because the limitation "the discharge manifold" lacks sufficient antecedent basis. Claim 9 is dependent on claim 8, which in turn is dependent on claim 7, which

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claim has been amended to be dependent on claim 4. Claim 4 provides antecedent basis for the "discharge manifold". In view of this amendment, it is believed that the rejection is overcome.

Claim 10 has been rejected because the term "aperture" is unclear. In particular, it appears that the Examiner questions where the first aperture is located. In order to overcome this rejection, the claim has been amended to recite the location of the first aperture. It is believed that this amendment overcomes the rejection.

For all of the foregoing reasons, it is respectfully requested that the rejection of claims 4, 9 and 10 under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

**Rejection Under 35 U.S.C. § 102**

Claims 1, 2, 4, 8, 9 and 30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by JP 2001-043868 A.

Claims 2 and 30 are dependent on independent claim 1, which has been amended to recite that the cover plate is located in the feeding manifold such that the upper surface of the plate is substantially flush with the surface of the separator. The claim has been further amended to add that a step is formed between the bottom of the channels and the bottom base face of the feeding manifold such that a distance between the undersurface of the cover plate and the bottom base of the feeding manifold is substantially equal to the depth of the channels. These features of the invention are not disclosed or suggested by JP 2001-043868 A.

Claim 8, which was dependent on claim 4, has been amended to be dependent on claim 7, which was not rejected as being anticipated by JP 2001-043868 A. Since claim 9 is dependent on claim 8, it is believed that the amendment to claim 8 overcomes the rejection of both claims 8 and 9.

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Claim 4 has been amended to recite first and second cover plates located in the feeding and discharge manifolds, respectively, such that the upper surfaces of the plates are substantially flush with the surface of the separator. Therefore, the upper part of the feeding manifold in the discharge manifold is flat. Therefore, when stacking with a catalyst electrode-solid polymer electrode membrane composite to form a fuel cell stack, the surface of the separator sandwiching the catalyst electrode-solid polymer electrode membrane composite becomes flat, resulting in stable production of a fuel cell stack and an improved yield. This feature on the invention is not disclosed or suggested by JP 2001-043868 A.

For all of the foregoing reasons, it is requested that the rejection of claims 1, 2, 4, 8, 9 and 30 under 35 U.S.C. § 102(b) as being anticipated by JP 2001-043868 A be reconsidered and withdrawn.

#### **Rejections Under 35 U.S.C. § 103**

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 2001-043868 A and Krasij (U.S. Patent No. 6,387,557). Claim 6 is dependent upon independent claim 1, which has been amended to add features not disclosed or suggested by the Japanese reference has set forth, *supra*. Krasij does not make up for the deficiencies of the Japanese reference. Accordingly, is respectfully requested that the rejection of claim 6 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 2001-043868 A and Kneidel (U.S. Patent No. 6,326,095). The claim has been amended to be dependent on claim 4 and to further define the channel-resistance regulating member as having a nozzle that faces a channel over the entire end of the channel. Claim 4 is not unpatentable over

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JP 2001-043868 A for the reasons set forth *supra*. Kneidel does not make up for the deficiencies of the Japanese reference. Neither reference discloses nor suggests the features added to claims 4 and 7. By adding these features, claim 7 requires that the fuel, oxidizer or coolant be evenly distributed so that it can efficiently be introduced into the channels. Accordingly, is respectfully requested that the rejection of claim 7 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Claims 10 and 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 2001-043868 A, Tsien (U.S. Patent No. 4,124,478), Bjaaeklint (U.S. Patent No. 4,274,939) and Okamoto (U.S. Patent No. 6,214,486). The rejection of claim 11 is in error since claim 11 was canceled prior to the final rejection. As for claim 10, it has been amended to be dependent on claim 9, which in turn is dependent upon claim 8, which in turn is dependent upon claim 7, which claim has been amended to be dependent on claim 4. Claim 4 is not unpatentable over JP 2001-043868 A for the reasons set forth *supra*. None of the secondary references relied upon in the rejection not make up for the deficiencies of the Japanese reference. Moreover, claim 10 has been amended to recite at the bottom of the first aperture is located below the inlet of the channel-resistance regulating member. This feature is not disclosed or suggested by any of the references relied upon by the Examiner. Accordingly, is respectfully requested that the rejection of claim 10 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

#### New Claims

New claims 31 and 32 have been added. These claims are dependent on claim 4, which for reasons set forth above, is not unpatentable over any of the references relied upon in the Office Action. Accordingly, it is respectfully requested that the new claims be given favorable consideration.

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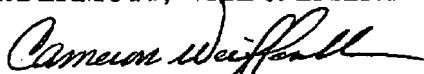
### Conclusion

It is submitted that the claims 1, 2, 4, 6-10 and 30-32 satisfy the requirements of 35 U.S.C. § 112 and are patentable over the teachings of the prior art relied upon by the Examiner. Accordingly, favorable reconsideration of the claims is requested in light of the preceding amendments and remarks. Allowance of the claims is courteously solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. § 1.17 and due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,  
McDERMOTT, WILL & EMERY

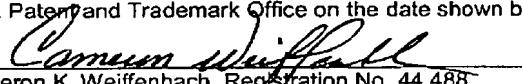
  
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I hereby certify that this paper (including any paper referred to as being attached or enclosed) is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

  
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